

STATE OF MICHIGAN
COURT OF APPEALS

RICHARD P. HOLMES,

Plaintiff-Appellant,

v

DONNA JEAN HOLMES,

Defendant-Appellee.

UNPUBLISHED

October 11, 2005

No. 252528

Oakland Circuit Court

Family Division

LC No. 99-358976-DM

Before: Cooper, P.J., and Fort Hood and R. S. Gribbs*, JJ.

GRIBBS, J. (*dissenting*).

I respectfully dissent. In this case, the trial court found that the parties' ability to remain gainfully employed, their age, and their ability to pay support all weighed in favor of continuing plaintiff's obligation to financially support defendant. In my view, these findings were clearly erroneous in light of the facts that plaintiff had been permanently laid off in May of 2000; was subsisting on his pension income of approximately \$36,000 per year; and, at age sixty-nine, was unlikely to find employment at his previous yearly salary of \$173,000.

Further, I would hold that the trial court's decision ordering plaintiff to pay defendant support of \$24,000 per year, in addition to the \$36,000 per year she received from his pension, was inequitable. The record shows that the parties' average monthly incomes were nearly equal – in fact, defendant's was slightly higher – and the trial court expressly found that neither party had demonstrated any need for spousal support. Plaintiff's motion to modify alimony was referred to the Friend of the Court, which, after a complete review, concluded that any award of spousal support should be zero. I would reverse and remand for a recalculation of support.

/s/ Roman S. Gribbs

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.